

### **REMARKS**

This responds to the Office Action mailed on March 21, 2008.

Claims 7-10, 14 and 18-19 are amended, claims 1-6 and 17 are canceled without prejudice or disclaimer, and no claims are added; as a result, claims 7-16 and 18-20 remain pending in this application.

### **Interview Summary**

Applicant thanks Examiners William H McCulloch and John Hotaling for the courtesy of an in-person interview on May 15, 2008 with Applicant's representatives John Fischer and Scott Schulhof. No agreement was reached regarding the status of the claims.

### **§102 Rejection of the Claims**

Claims 1-5 and 14-17 were rejected under 35 U.S.C. § 102(e) for anticipation by U.S. 2002/0116615 to Nguyen et al. (hereinafter "Nguyen". Claims 1-5 and 17 have been canceled without prejudice or disclaimer in this response, therefore the rejection is believed moot.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *M.P.E.P* § 2131. To anticipate a claim, a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter. *PPG Industries, Inc. V. Guardian Industries Corp.*, 75 F.3d 1558, 37 USPQ2d 1618 (Fed. Cir. 1996). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). Applicant respectfully submits that claims 14-16 as amended contain elements not found in Nguyen.

For example, claim 14 as amended recites “a first server operable to forward a copy of an unapproved gaming software program to a jurisdiction lab system and further operable to receive a message from the jurisdiction lab system that the unapproved gaming software program is in compliance with a plurality of jurisdiction regulations and policies and in response to the message to change the status of the unapproved software to form an approved gaming software program.” Nguyen is directed to providing secure communications between a gaming machine and a network server (see Abstract). Applicant has reviewed Nguyen and can find no disclosure of a first server that communicates with a jurisdiction lab system over a network to send and receive messages related to approving gaming software. As a result, Nguyen does not disclose each and every element of claim 14 as amended. Therefore Nguyen does not anticipate claim 14. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 14.

Claims 15 and 16 depend from claim 14, including elements related to a first server that communicates with a jurisdiction lab system to send and receive messages related to approval of gaming software programs, in addition to other patentable distinctions. Therefore claims 15 and 16 are allowable for at least the reasons discussed above regarding claim 14.

Claims 7-8 and 18-19 were rejected under 35 U.S.C. § 102(e) for anticipation by U.S. 2003/0069074 to Jackson (hereinafter “Jackson”). Applicant respectfully submits that claims 7-8 and 18-19 as amended recite elements not found in Jackson and are therefore not anticipated by Jackson.

For example, claim 7 as amended recites “receiving by a game provider server a message from a lab, the message indicating a notification of approval of unapproved gaming software, over a communication network, the notification of approval indicating compliance of the unapproved gaming software with a plurality of regulations” and further recites “making the approved gaming software available for download to one or more of a plurality of corporate game servers.” Applicant respectfully submits that neither of these elements is disclosed in Jackson. The Office Action states that Jackson, at paragraphs 177-178 teaches receiving notification of approval indicating compliance of the (previously) unapproved gaming software with a plurality of regulations. Applicant respectfully submits that the operation described in Jackson is significantly different from Applicant’s claim 7 as amended. In Jackson, a user interface 614 is used to allow a gaming official to check a game and authorize its use. Thus it is

clear that a user interface 614 receives input from a gaming official in order to provide authorization. This is different from Applicant's claims, in which network messages are communicated between a game provider server and a lab system. The system to system communications recited in Applicant's claims is different from the "gaming official" to system communications requiring a user interface.

An additional distinction between claim 7 and the system disclosed in Jackson is the use of a three tiered system in order to provide gaming software. As recited in claim 7, a gaming provider server communicates with a lab server to obtain jurisdictional authorization for gaming software. The gaming provider server further communicates with a corporate game server to provide authorized games to the corporate server. This is quite different from the operation of Jackson. In Jackson, a gaming official provides authorization through a user interface of a game server. No communication between the game server and a jurisdiction lab is disclosed in Jackson. Further, there is no disclosure in Jackson of communication between a game provider server and both a jurisdiction system and a corporate game server as recited in claim 7.

In view of the above, there are multiple elements recited in claim 7 as amended that are not disclosed in Jackson. As a result, Jackson does not anticipate claim 7. Applicant respectfully requests reconsideration and the withdrawal of claim 7.

Claim 8 recites "forwarding the unapproved gaming software over the communication network to the lab, the lab configured to test compliance of the unapproved gaming software with the plurality of regulations." As discussed above, Jackson discloses a user interface allowing a gaming official to authorize a game on a server. Jackson does not disclose any communication of software from a game provider server to a jurisdiction lab. As a result, Jackson does not anticipate claim 8. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 8.

Claims 18-19 as amended are computer-readable medium claims that recite elements similar to claims 7-8. Applicant respectfully submits that claims 18-19 are not anticipated by Jackson for the same reasons as discussed above regarding claims 7-8. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 18-19.

§103 Rejection of the Claims

Claims 6, 9-13 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nguyen in view of Jackson. Claim 6 has been canceled without prejudice or disclaimer in this response, therefore the rejection is believed to be moot with respect to claim 6.

The determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence. *See Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37 (Fed.Cir. 2005). The legal conclusion that a claim is obvious within § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966). The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested, by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) ; M.P.E.P. § 2143.03. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ; M.P.E.P. § 2143.03. As part of establishing a *prima facie* case of obviousness, the Examiner's analysis must show that some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* To facilitate review, this analysis should be made explicit. *KSR Int'l v. Teleflex Inc., et al.*, 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ2d 1385 (2007) (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006)). Applicant respectfully submits that the combination of Nguyen and Jackson fails to disclose elements of claims 9-13 and 20 and therefore claims 9-13 and 20 are not obvious in view of the combination.

Claim 9 depends from claim 7, and therefore inherits the elements of claim 7. Claim 20 depends from claim 18 and therefore inherits the elements of claim 18. Each of these dependent claims 9 and 20 therefore include by inheritance elements directed to receiving communications

from a lab system wherein the message indicates approval of a gaming software program. As discussed above regarding claims 7 and claim 14, neither Jackson nor Nguyen disclose a game provider system that receives communications from a lab system that authorize a previously unapproved gaming software program and where the gaming provider system then makes the now authorized gaming software program available to corporate game servers. Because neither Nguyen nor Jackson disclose these elements, there are significant differences between the combination of Nguyen and Jackson and Applicant's claims 9 and 20. Therefore claims 9 and 20 are not obvious in view of the combination. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 9 and 20.

Claim 10, like claim 7, recites "receiving a message indicating a notification of approval of the unapproved gaming software from the jurisdiction lab, the notification of approval indicating compliance of the unapproved gaming software with the plurality of jurisdiction regulations and policies." As discussed above, neither Nguyen nor Jackson disclose exchanging message communications to indicate approval of a gaming software program. Therefore claim 10 recites elements not found in the combination of Nguyen and Jackson. As a result, claim 10 is not obvious in view of the combination. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 10.

Claims 11-13 depend either directly or indirectly from claim 10, respectively, and are patentable over Nguyen and Jackson for the reasons argued above, and are also patentable in view of the additional elements which they provide to the patentable combination. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious. MPEP § 2143.03.

#### **Reservation of Rights**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, all inherency assertions, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind a cited

reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of a cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

### CONCLUSION

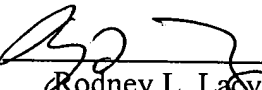
Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

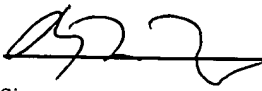
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Date August 21, 2008

By   
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21st day of August 2008.

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Name

  
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